From: Joeri Sebrechts
To: Microsoft ATR
Date: 12/13/01 9:46am
Subject: comment on the settlement

Hello,

For the last decade, I have been involved in the computing industry as a consumer and developer, and have seen the events regarding Microsoft's monopoly unfold from the first row. I therefore believe to have an opinion worth hearing regarding this case.

There are two things an appropriate anti-trust case remedy must seek to fulfill: it must repair damages done, and it must prevent future damages. In this specific case, the damages done to consumer choice by the illegal maintaining by Microsoft of their OS and browser monopolies must be undone, and a set of rules must be setup to make sure Microsoft has to act correctly in future years, accompanied by a set of punishments if Microsoft were to abuse their monopoly position again.

These remedies can not be delayed, or lessened by a need to resolve this case quickly. If this case is not resolved correctly then consumers and businesses in the US, and across the globe, will suffer in the coming years due to maintenance of the status quo, which is Microsoft not acting in a legal manner. A soft or hasty approach will lead Microsoft to the obvious conclusion that it is "all right" to abuse a monopoly position, and will offer no inducement to stop their current illegal behavior.

In view of this, the settlement as proposed by Microsoft and the DOJ is inappropriate. It does NOT repair damages done, and although it sets up a number of behavioral limits to Microsoft, these are not extensive enough in scope to cover all the ground this case covers, and have no set of adequate punishments if these limits are broken.

So, what would I personally consider appropriate measures? Firstly, damages done must be undone. While there are a number of businesses involved in this case, which deserve compensation, the most important party which has suffered under Microsoft's illegal actions is the end-of-line consumer. Microsoft's actions have led to less choices, and higher prices. The most important problem is the binding of the Windows operating system to new systems sold. There can be no effective competition in the operating systems market as long as you can not walk into a store and buy a computer with the operating system of your choice, without having to also buy a copy of Windows. Microsoft must be forbidden to make deals that disallow PC's to be sold without a copy of Windows. Also, current deals that aim to achieve that effect must be renegotiated to comply with this new behavioral limit.

Another large party harmed by Microsoft's actions are the developers of
software interacting with Microsoft software. The consistent efforts of
Microsoft to break compatibility of Windows with competing products
maintains their monopoly. This must be stopped. Any and all information
interchange protocols used in the Windows and Internet explorer
products, or parts thereof, must be fully documented, so competitors can
be offered a levelled playing field with Microsoft's own software
developers (of products which run on top of the Windows or Internet
Explorer products). This includes file formats, data sharing protocols
used in networks, and so called "objects". In addition, Microsoft can
not enforce licensing of patents which block competitors' products from
inter-operation with the Windows and Internet Explorer products.
Otherwise, they could price the competitors right out of the market,
again maintaining their monopoly, which would be illegal. As a third
hatch to this, all application programming interfaces (API's) offered by
the Windows and Internet Explorer products must be fully documented
(with the documentation available freely, or at the cost of the
information carrier), again allowing competitors to write programs that
interact with the Windows and Internet Explorer products. All new API's
also fall under this rule, so Microsoft can not move away to
undocumented API's once they have made documentation available. The
above mentioned patent rule also applies to these API's, to make sure
everyone (including the so called open source community, which can not
afford paying licensing rights), on equal terms, can write programs that
drive and interact with the Windows and Internet Explorer products.

The above mentioned rules only apply to the Windows and Internet
Explorer products, because they were the ones directly mentioned in this
case. Microsoft holds another monopoly however, on the Office product,
which comprises Word, Excel, Powerpoint and various other programs.
These might be used as stepping stones to dodge the rules applied by the
above set of remedies. More importantly, one of the most used
information interchange formats is the Word .doc format. Although part
of this format has been documented, it has proven to be nearly
impossible to offer full compatibility. Since in the business world
everyone uses Word, as a business you have no choice but to also use
Word, since no other product will edit (there is a free viewer
available, but viewing is only part of the equation) received word
documents meant for revision, like contracts, for example. These
problems also apply to the other components of the Office suite. It
would be best for the business world as a whole if the Office file
formats were fully documented. I understand this may fall outside of the
scope of this trial. But someday someone will have to deal with this
problem, because it is an even bigger problem than the Windows and
Internet Explorer monopolies.

Finally, to ensure interaction with the Microsoft platform, any
networking protocol designed and used by Microsoft must not only be
fully documented, but also reviewed by an impartial standards body to

make sure it can be used by anyone freely, purely on an interaction basis. Therefore there can be no patents blocking use of the protocol. The reason why this is important can be seen by the impressive hoops competitors have to jump through just to be able to inter-operate with Windows systems. An example of this is the samba server (http://www.samba.org), which is a file sharing server designed to mimic a Windows file sharing server on another operating system. Despite years of active development and reverse engineering in trying to obtain full interoperability with Windows clients, they still haven't achieved their objective. Microsoft keeps changing the protocols involved to remain incompatible. This kind of monopoly-enforcing behavior must be stopped.

All these behavioral limits must be enforced by an independent group, with the option to apply appropriate punishment (in cash or in other measures) should Microsoft not live up to them. This to make sure Microsoft actually complies with the rules set up by the court in remedying Microsoft's illegal monopoly.

I hope this comment, and the many more just like it, will show that the IT community at large feels the current settlement is a failure. I agree that solving the situation quickly is desireable, but not at the expense of the general public, and the business community, which will certainly be the case if the current settlement is approved.

Have a nice day,
Joeri Sebrechts